

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NAHUM GILBERTO ORTIZ; DENNY MOLINA
CANTOR; LUCAS PALACIOS ALVARADO;
JEREMIAS LOPEZ LOPEZ; ELMER MOSCOSO
GUERRA; and LUIS GONZALEZ CARBAJAL,

Plaintiffs,

v.

ORANGE COUNTY, NEW YORK; PAUL ARTETA,
Sheriff of Orange County, in his official and individual
capacity; CARL DUBOIS, former Sheriff of Orange
County, in his individual capacity; KENNETH JONES,
former Undersheriff of Orange County, in his individual
capacity; U.S. DEPARTMENT OF HOMELAND
SECURITY; U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT; and KENNETH GENALO, Acting
ICE Field Office Director, in his official capacity,

Defendants.

Defendants ORANGE COUNTY, PAUL ARTETA, CARL DUBOIS, and KENNETH JONES, by their attorneys, Sokoloff Stern LLP, answer Plaintiffs' Complaint dated April 4, 2023 (the "Complaint") as follows:

1. Deny the allegations set forth in paragraph "1" of the Complaint, except admit that Plaintiffs purport to bring this action as set forth therein.
2. Deny the allegations set forth in paragraph "2" of the Complaint, except admit that Orange County has an agreement with U.S. Immigration and Customs Enforcement ("ICE") to house detainees who have been convicted of other crimes pending resolution of the detainees' immigration proceedings.
3. Deny the allegations set forth in paragraph "3" of the Complaint.

4. Deny the allegations set forth in paragraph “4” of the Complaint.
5. Deny the allegations set forth in paragraph “5” of the Complaint.
6. Deny the allegations set forth in paragraph “6” of the Complaint.
7. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “7” of the Complaint.
8. Deny the allegations set forth in paragraph “8” of the Complaint.
9. Deny the allegations set forth in paragraph “9” of the Complaint.
10. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “10” of the Complaint, and respectfully refer all questions of law to the Court for adjudication.
11. Deny the allegations set forth in paragraph “11” of the Complaint, except admit that Plaintiffs purport to bring this action as set forth therein.
12. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “12” of the Complaint.
13. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “13” of the Complaint.
14. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “14” of the Complaint.
15. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “15” of the Complaint.
16. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “16” of the Complaint.
17. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “17” of the Complaint.

18. Deny the allegations set forth in paragraph “8” of the Complaint and refer all questions of law to the Court for adjudication.

19. Deny the allegations set forth in paragraph “19” of the Complaint, except admit that Defendant Paul Arteta is the Sheriff of Orange County and has held that role since January 1, 2023.

20. Deny the allegations set forth in paragraph “20” of the Complaint except admit that Defendant Carl DuBois was the Sheriff of Orange County from January 1, 2003 to December 31, 2022.

21. Deny the allegations set forth in paragraph “21” of the Complaint except admit that Defendant Kenneth Jones was the Undersheriff of Orange County from January 2003 to December 31, 2022.

22. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “22” of the Complaint.

23. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “23” of the Complaint.

24. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “24” of the Complaint.

AS AND FOR A RESPONSE TO FACTUAL ALLEGATIONS

25. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “25” of the Complaint.

26. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “26” of the Complaint.

27. Deny the allegations set forth in paragraph “27” of the Complaint.

28. Admit the allegations set forth in paragraph “28” of the Complaint.

29. Deny the allegations set forth in paragraph “29” of the Complaint and refer all

questions of law to the Court for adjudication, except admit that Defendant DuBois served as Sheriff from January 1, 2003 to December 31, 2022, and Defendant Arteta succeeded DuBois as Sheriff.

30. Deny the allegations set forth in paragraph “30” of the Complaint.
31. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “31” of the Complaint.
32. Deny the allegations set forth in paragraph “32” of the Complaint.
33. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “33” of the Complaint.
34. Deny the allegations set forth in paragraph “34” of the Complaint.
35. Deny the allegations set forth in paragraph “35” of the Complaint.
36. Deny the allegations set forth in paragraph “36” of the Complaint.
37. Deny the allegations set forth in paragraph “37” of the Complaint.
38. Deny the allegations set forth in paragraph “38” of the Complaint.
39. Deny the allegations set forth in paragraph “39” of the Complaint.
40. Deny the allegations set forth in paragraph “40” of the Complaint.
41. Deny the allegations set forth in paragraph “41” of the Complaint.
42. Deny the allegations set forth in paragraph “42” of the Complaint.
43. Deny the allegations set forth in paragraph “43” of the Complaint.
44. Deny the allegations set forth in paragraph “44” of the Complaint.
45. Deny the allegations set forth in paragraph “45” of the Complaint.
46. Deny the allegations set forth in paragraph “46” of the Complaint.
47. Deny the allegations set forth in paragraph “47” of the Complaint.
48. Deny the allegations set forth in paragraph “48” of the Complaint.

49. Deny the allegations set forth in paragraph “49” of the Complaint.
50. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “50” of the Complaint.
51. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “51” of the Complaint.
52. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “52” of the Complaint.
53. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “53” of the Complaint.
54. Deny the allegations set forth in paragraph “54” of the Complaint.
55. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “55” of the Complaint.
56. Deny the allegations set forth in paragraph “56” of the Complaint.
57. Deny the allegations set forth in paragraph “57” of the Complaint.
58. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “58” of the Complaint.
59. Deny the allegations set forth in paragraph “59” of the Complaint.
60. Deny the allegations set forth in paragraph “60” of the Complaint.
61. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “61” of the Complaint.
62. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “62” of the Complaint.
63. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “63” of the Complaint.

64. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “64” of the Complaint.

65. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “65” of the Complaint.

66. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “66” of the Complaint.

67. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “67” of the Complaint.

68. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “68” of the Complaint.

69. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “69” of the Complaint.

70. Deny the allegations set forth in paragraph “70” of the Complaint.

71. Deny the allegations set forth in paragraph “71” of the Complaint.

72. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “72” of the Complaint.

73. Deny the allegations set forth in paragraph “73” of the Complaint, and respectfully refer all questions of law to the Court for adjudication.

74. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “74” of the Complaint.

75. Deny the allegations set forth in paragraph “75” of the Complaint.

76. Deny the allegations set forth in paragraph “76” of the Complaint.

77. Deny the allegations set forth in paragraph “77” of the Complaint.

78. Deny the allegations set forth in paragraph “78” of the Complaint.

79. Deny the allegations set forth in paragraph “79” of the Complaint.
80. Deny the allegations set forth in paragraph “80” of the Complaint.
81. Deny the allegations set forth in paragraph “81” of the Complaint.
82. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “82” of the Complaint.
83. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “83” of the Complaint.
84. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “84” of the Complaint.
85. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “85” of the Complaint.
86. Deny the allegations set forth in paragraph “86” of the Complaint.
87. Deny the allegations set forth in paragraph “87” of the Complaint.
88. Deny the allegations set forth in paragraph “88” of the Complaint.
89. Deny the allegations set forth in paragraph “89” of the Complaint.
90. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “90” of the Complaint.
91. Deny the allegations set forth in paragraph “91” of the Complaint.
92. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “92” of the Complaint.
93. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “93” of the Complaint.
94. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “94” of the Complaint.

95. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “95” of the Complaint.

96. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “96” of the Complaint.

97. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “97” of the Complaint.

98. Deny the allegations set forth in paragraph “98” of the Complaint.

99. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “99” of the Complaint.

100. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “100” of the Complaint.

101. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “101” of the Complaint.

102. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “102” of the Complaint.

103. Deny the allegations set forth in paragraph “103” of the Complaint.

104. Deny the allegations set forth in paragraph “104” of the Complaint.

105. Deny the allegations set forth in paragraph “105” of the Complaint.

106. Deny the allegations set forth in paragraph “106” of the Complaint.

107. Deny the allegations set forth in paragraph “107” of the Complaint.

108. Deny the allegations set forth in paragraph “108” of the Complaint.

109. Deny the allegations set forth in paragraph “109” of the Complaint.

110. Deny the allegations set forth in paragraph “110” of the Complaint.

111. Deny the allegations set forth in paragraph “111” of the Complaint.

112. Deny the allegations set forth in paragraph “112” of the Complaint, and respectfully refer all questions of law to the Court for adjudication.

113. Deny the allegations set forth in paragraph “113” of the Complaint, and respectfully refer all questions of law to the Court for adjudication.

114. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “114” of the Complaint.

115. Deny the allegations set forth in paragraph “115” of the Complaint.

116. Deny the allegations set forth in paragraph “116” of the Complaint.

117. Deny the allegations set forth in paragraph “117” of the Complaint.

118. Deny the allegations set forth in paragraph “118” of the Complaint.

119. Deny the allegations set forth in paragraph “119” of the Complaint.

120. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “120” of the Complaint.

121. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “121” of the Complaint.

122. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “122” of the Complaint.

123. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “123” of the Complaint.

124. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “124” of the Complaint.

125. Deny the allegations set forth in paragraph “125” of the Complaint, and respectfully refer all questions of law to the Court for adjudication.

126. Deny the allegations set forth in paragraph “126” of the Complaint, and respectfully

refer all questions of law to the Court for adjudication.

127. Deny the allegations set forth in paragraph “127” of the Complaint, and respectfully refer all questions of law to the Court for adjudication.

128. Deny the allegations set forth in paragraph “128” of the Complaint, and respectfully refer all questions of law to the Court for adjudication.

129. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “129” of the Complaint.

130. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “130” of the Complaint.

131. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “131” of the Complaint.

132. Deny the allegations set forth in paragraph “132” of the Complaint, and respectfully refer all questions of law to the Court for adjudication.

133. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “133” of the Complaint.

134. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “134” of the Complaint.

135. Deny the allegations set forth in paragraph “135” of the Complaint.

136. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “136” of the Complaint.

AS AND FOR A RESPONSE TO JURISDICTION AND VENUE

137. Deny the allegations set forth in paragraph “138” of the Complaint, except admits that plaintiffs purport to assert jurisdiction as set forth therein.

138. Deny the allegations set forth in paragraph “138” of the Complaint, except admits

that plaintiffs purport to assert jurisdiction as set forth therein.

139. Deny the allegations set forth in paragraph “139” of the Complaint, except admits that plaintiffs purport that venue is proper.

**AS AND FOR A RESPONSE TO CLAIMS FOR RELIEF
FIRST CLAIM**

140. Deny the allegations set forth in paragraph “140” of the Complaint.

**AS AND FOR A RESPONSE TO CLAIMS FOR RELIEF
SECOND CLAIM**

141. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “141” of the Complaint, and respectfully refer all questions of law to the Court for adjudication.

**AS AND FOR A RESPONSE TO CLAIMS FOR RELIEF
THIRD CLAIM**

142. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “142” of the Complaint, and respectfully refer all questions of law to the Court for adjudication.

143. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “143” of the Complaint, and respectfully refer all questions of law to the Court for adjudication.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

144. The Complaint fails to state a claim upon which relief may be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

145. Plaintiffs did not engage in any protected activity.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

146. Defendants did not engage in any discriminatory or retaliatory conduct against Plaintiffs on account of any protected category or activity or to chill Plaintiffs' speech.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

147. Defendants had legitimate, non-discriminatory and non-retaliatory reasons for their actions.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

148. No municipal policymaker violated Plaintiffs' constitutional rights.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

149. No municipal policy, practice, or custom violated Plaintiffs' constitutional rights.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

150. Plaintiffs failed to mitigate their damages, if any.

AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE

151. Plaintiffs failed to comply with the conditions precedent to suit.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE

152. Defendants are entitled to absolute, qualified, discretionary, governmental, and all other immunities afforded to them under the law.

AS AND FOR A TENTH AFFIRMATIVE DEFENSE

153. The individual Defendants did not violate any clearly established constitutional or statutory rights of which a reasonable person would have known and are therefore entitled to qualified immunity.

AS AND FOR AN ELEVENTH AFFIRMATIVE DEFENSE

154. Defendants have not violated any rights, privileges or immunities under the Constitution or laws of the United States or the State of New York or any political subdivision thereof, nor have they violated any Act of Congress providing for the protection of civil rights.

AS AND FOR A TWELFTH AFFIRMATIVE DEFENSE

155. At all times relevant to the acts alleged in the Complaint, Defendants, their agents and officials, acted reasonably, properly, and in the lawful exercise of their discretion.

AS AND FOR A THIRTEENTH AFFIRMATIVE DEFENSE

156. One or more Defendants were not personally involved with acts alleged.

AS AND FOR A FOURTEENTH AFFIRMATIVE DEFENSE

157. To the extent that Plaintiffs sustained damages as alleged in the Complaint, such damages were caused, in whole or in part, by their own negligent or culpable conduct or the negligent or culpable conduct of third parties and was not the proximate result of any act of the Defendants.

AS AND FOR A FIFTEENTH AFFIRMATIVE DEFENSE

158. Plaintiffs have unclean hands.

AS AND FOR A SIXTEENTH AFFIRMATIVE DEFENSE

159. Plaintiffs' purported speech was not chilled.

AS AND FOR A SEVENTEENTH AFFIRMATIVE DEFENSE

160. Defendants had legitimate penological reasons for their actions.

AS AND FOR AN EIGHTEENTH AFFIRMATIVE DEFENSE

161. Plaintiffs failed to exhaust their administrative remedies.

WHEREFORE, Defendants demand judgment dismissing the Complaint in its entirety, together with the costs, disbursements, attorneys' fees for this action, and any other relief that this Court deems equitable, just, and proper.

Dated: Carle Place, New York
July 7, 2023

SOKOLOFF STERN LLP
Attorneys for Defendants

By: 
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TO: All Counsel Via ECF